Supreme Court, U.S.
FILED

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NO. OFFICE OF THE CLERK

Supreme Court of the United States

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1993

IRVIN HANNIS CATLETT, JR.,
Petitioner,

v.

COMMONWEALTH OF VIRGINIA,
Respondent.

Petition For A Writ Of Certiorari
To The Supreme Court
Of Virginia

PETITION FOR WRIT OF CERTIORARI

Irvin Hannis Catlett,Jr.
P.O. Box 128
Kensington, MD 20895
(301) 779-3330
Pro Se

QUESTIONS PRESENTED

1. Whether Clerk of Arlington Circuit Court abridged Petitioner's Fourteenth Amendment by failure to timely file trial transcripts and by misleading Petitioner into believing that transcripts were timely filed resulting in the dismissal of issues brought on appeal with respect to ineffective assistance of councel, Commonwealth's prejudicial remarks during opening statement, trial Judge's remarks to the jury, prejudicial remarks by Witness Barrow, and Commonwealth's misleading remarks during closing argument.

2. Whether Petitioner's Sixth and Fourteenth Amendments were abridged

by trial court Judge revoking Petitioner's appeal bond while Petitionwas prosecuting Pro Se appeal.

3. Whether Supreme Court of Virginia erred by denying Petitioner Petition For Rehearing considering that then incarcerated Petitioner did not have correct Rules in the Detention Center Law Library to perfect appeal.

PARTIES

COMES NOW the Petitioner, Irvin Hannis Catlett, Jr., Pro Se, and seeks review of the Judgments from the Virginia Supreme Court Record Number 931006, Court of Appeals of Virginia Record Number 0209-91-4 and Arlington County Virginia Circuit Court Numbers CR 87-468 - CR 87-479 and the actions of the Clerk of Court and trial Judge pertaining to that case.

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Copies of the denial of the Petition For Rehearing Supreme Court of Virginia (App. 1), Virginia Supreme Court Dismissal of Petition For Appeal (App. 2), Opinion from Virginia Court of Appeals remanding bond issue to Arlington Circuit Court (App. 3-4), Denial of Petition For Rehearing Virginia Court of Appeals, Opinion of Virginia Court of Appeals affirming Trial Court convictions (App. 5-6), and Opinion of Virginia Court of Appeals dismissing certain issues of appeal for late filing of transcripts (App. 7), whose Judgments are sought to be reviewed are attached hereto.

STATEMENT OF THE GROUNDS ENVOKING THE JURISDICTION OF THIS COURT

Judgment in this case was entered by the Supreme Court of Virginia on September 27, 1993.

Appellant's Petition For Rehearing was denied on November 5, 1993. This Petition For Writ Of Certiorari is filed within ninety (90) days of that date. The Court's jurisdiction is invoked under Title 28 USC 1257.

CONSTITUTIONAL PROVISIONS INVOLVED

The applicable provisions of the Constitution of the United States are Amendments 6, 8 and 14.

AMENDMENT 6

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

AMENDMENT 8

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

AMENDMENT 14
Section 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to

any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

Petitioner, Irvin Hannis Catlett, Jr., was charged with violating Section 18.2-172 Code of Virginia, 1950, as amended. The Commonwealth alleging that on December 31, 1982, January 24, 1983, January 7, 1983, January 7, 1983, January 26, 1983, December 1, 1982, September 28, 1982, September 23, 1982, September 13, 1982, December 23, 1982, September 20, 1982, January 20, 1983, did forge with intent to defraud and to the prejudice of another's right.

On June 25, 1990, the Jury returned a verdict of guilty and recommended that Irvin Hannis Catlett, Jr., be sentenced to twelve four

months terms in the Arlington County Detention Center plus twelve one thousand dollars fines. Following the filing of a presentence report and Mr. Catlett's sentencing on January 4, 1991, the Circuit Court of the County of Arlington, the Honorable Judge Paul E. Sheridan presiding, sentenced Mr. Catlett to twelve consecutive four month terms plus $12,000 in fines. Mr. Catlett filed his Notice Of Appeal January 28, 1991.

Catlett filed a Motion To Be Determined Indigent on February 26, 1991. That Motion was granted on March 4, 1991, by the Honorable Judge Paul E. Sheridan. The Order

specified that all trial transcripts be provided to Catlett and that the transcripts be made part of the Record For Appeal and that those transcripts be completed by March 21, 1991. (App. 11).

Prior to March 21, 1991, Catlett was assured by an assistant Clerk of the Arlington Court that transcripts would be filed timely and that it was not necessary to petition trial court for extention of time.

Catlett was given trial transcripts dated July 23 and July 25, 1990, on April 20, 1991.

On April 20, 1991, Catlett filed a Notice with the trial court Clerk pursuant to Rule 5A:8(b) of

the Rules of the Virginia Court Of Appeals stating that the transcripts were incomplete and ask Clerk to comply with the order and notify trial court Judge of same. Trial court Clerk ignored Catlett's requests.

On May 3, 1991, Appellant was given contents of Record for appeal with the missing transcripts still evident. Arlington County and the Commonwealth of Virginia failed to comply with trial court order.

On July 1, 1991, Catlett timely filed a Petition For Appeal in the Court Of Appeals. On August 18, 1991, that court dismissed certain issues in petition due to the late filing of transcripts (App. 7).

Those issues dismissed were whether Petitioner Catlett received reasonable assistance of councel, whether the Commonwealth prejudiced the jury by its opening statement, whether the trial Judge unfairly influenced jury, whether jury was prejudiced by a statement from Witness Barrow, and whether Commonwealth misstatement of facts during closing argument cause error.

Catlett argued orally on January 27, 1992, in front of a three Judge Panel. The Panel granted Catlett petition in part and denied in part.

On April 20, 1993, the Court Of Appeals affirmed trial court decision and on June 17, 1993, denied

Catlett's Petition For Rehearing.

On June 21, 1993, Catlett's appeal bond was revoked by trial court based on affirmation of Court Of Appeals. Catlett filed a Notice Of Appeal with the Supreme Court of Virginia on June 30, 1993, while incarcerated. Catlett filed a Motion For Bond Pending Appeal (App. 21) seeking the time to prosecute appeal outside the confines of Detention Center. The trial court denied that Motion stating that Catlett would have no trouble prosecuting appeal incarcerated. On June 30, 1993, Catlett timely filed a Notice Of Appeal to the Supreme Court of Virginia.

On July 10, 1993, Catlett filed with the Virginia Supreme Court, a Motion For Extension Of Time to file Petition For Appeal (App. 33) in the Supreme Court and stating the failure to extend time would deprive Petitioner equal protection of laws guaranteed by the Fourteenth Amendment.

On July 12, 1993, Catlett filed an Emergency Motion For Review (App. 13) stating that it would be impossible for Petitioner to fully take appeal due to the limited time allowed for research and the antiquated material from which to perfect appeal and stated that under the Federal Bail Reform Act of 1984 Petitioner's bond should not have been revoked and should be re-instated.

On July 15, 1993, Supreme Court of Virginia denied Petitioner's Motion For Extention Of Time To File Appeal.

On July 16, 1993, the Virginia Court Of Appeals remanded the bond issue back to the trial court.

On July 17, 1993, Petitioner timely filed Petition For Appeal with the Virginia Supreme Court.

On July 31, 1993, deferring to the order from the Court Of Appeals of Virginia, Petitioner was released from the Detention Center pending appeal.

On September 27, 1993, the Supreme Court Of Virginia dismissed Petition For Appeal finding that

the appeal was not perfected in the manner prescribed by law (App. 2) citing Rule 5:17(c) (App. 31) of the Rules of the Supreme Court of Virginia.

On October 10, 1993, Petitioner filed a Petition For Rehearing stating that the Rule 5 of the Rules Of The Supreme Court available to the then incarcerated Petitioner Rule 5:17(c) (App. 29) did not specify a separate heading entitled "Assignment Of Errors."

Despite not having the new rules available for Petitioner to perfect appeal, Petitioner's Petition For Rehearing was denied on November 5, 1993. (App. 1)

The first Federal question sought to be raised in this writ was in Petitioner's Petition For Rehearing En Banc and Petitioner's Memorandum In Support Of Rehearing En Banc filed May 3, 1993, with the Court Of Appeals Of Virginia at Richmond, Virginia, arguing that the late filing of court ordered trial transcripts and the misleading of Petitioner that transcripts were timely filed was denial of Petitioner's equal protection and due process as guaranteed by the Fourteenth Amendment on page 5 of Petitioner's Memorandum In Support Of Rehearing to the Court Of Appeals of Virginia (App. 37) by preventing Petitioner from fully taking appeal.

On the 17th day of June 1993, without any explanation, the Petition For Rehearing was denied (App. 5).

Petitioner's appeal bond was revoked on June 21, 1993, hearing. At that time Petitioner raised the issue that without factual finding as guaranteed by the Eighth Amendment that based solely on said order dated April 20, 1993, from the Virginia Court of Appeals and prior to Petitioner's Petition For Rehearing in that court being denied (App. 19).

On July 2, 1993, Petitioner argued that Petitioner's Fourteenth Amendment rights under due process were being compromised in front of Judge Paul Sheridan, stating that it would be impossible to perfect

appeal to the Virginia Supreme Court with the outdated law library contained in the Arlington County Detention Center (App. 27).

On July 12, 1993, Petitioner filed an Emergency Motion For Review in the Court of Appeals of Virginia asking that that court review and reverse Judge Winston and Judge Sheridan, raising the question under the Federal Bail Reform Act and Eighth and Fourteenth Amendment violations (App. 13).

On July 16, 1993, the Virginia Court of Appeals remanded the matter back to the trial Judge (App.3) and Petitioner was released on July 31, 1993.

The transcript issue was raised again in Petitioner's Petition For Appeal to the Supreme Court of Virgina, although that issue was not allowed to be raised due to the finding by that Court that the appeal was not perfected in the manner prescribed by law.

Petitioner again raised the Fourteenth Amendment issue in Petitioner's October 10, 1993, Petition For Rehearing to the Virginia Supreme Court stating that Petitioner's rights were again abridged, stating that Rule 5:17(c) of the Rules of the Virginia Supreme Court available in the Detention Center were not the annoted Rules referred to in the denial (App. 39).

ARGUMENT FOR ALLOWANCE OF WRIT FOR QUESTION ONE

Petitioner's right to apply for an appeal from a judgment of convictions was abridged under the equal protection of the laws guaranteed by the Fourteenth Amendment by:

1. Failure of Clerk of Court to timely file transcripts and make those transcripts part of the record as ordered by trial court Judge on March 4, 1991;

2. Misleading Petitioner into believing that transcripts would be timely filed and a Motion For Leave of the Court To Extend Time was not needed;

3. Failure of the Clerk of

Court to correct record and/or submit Petitioner's request for decision by trial court to determine completeness of transcripts.

Feather v. Peyton 297F Supp 772 WD VA 1969 states that an indigent defendant who requests an appeal is entitled to free transcripts in order to assist in preparing an appeal.

Commonwealth's failure to provide transcripts and timely filing same violated Petitioner's Fourteenth Amendment.

Clerk's mistakes in judgments, orders or other parts of record may be corrected, Rupinski v. United States, 4 F 2d 17. However, substantially effected mistakes is prejudicial. The Virginia Court Of Appeals erred

by failure to enlarge record when ask by Petitioner.

Griffin v. The People Of The State Of Illinois 176 S Ct. 585 states that: "Under due process and equal protection clauses destitute Defendants must be afforded an adequate Appellate Review as defendants who have money enough to buy transcripts and;

Where convicted defendants alleged that they were poor persons with no means of paying necessary fees to acquire transcripts and court records needed to prosecute Appeal, denial of motion that copy of record including transcripts be furnished them without cost was

a denial of equal protection and due process and defendant was entitled to relief."

Petitioner was given a good reasonable assurance that transcripts would be filed or extention thereof would be filed, this contractually shifts the burden of filing on the Clerk's Office.

The record must affirmatively show that all essential formalities in procedure have been complied with and a failure to do so constitutes error on the fact of the record of which advantage may be taken on a Writ Of Error, even though objection was not made by the accused at the Trial Court.

Due process does require that one convicted of a crime is entitled to file an appeal and a denial of right constitutes a violation of the due process clauses of the Federal Constitution, rendering any sentence imposed by reason of the conviction void and unenforceable.

Therefore, due to the acts of the Circuit Court employees, failing to timely file transcripts, misleading Petitioner that Motion For Leave Of The Court For Extension To File Transcripts was not necessary and failing to correct or submit Petitioner's request to trial court to correct record, and as a result of those acts, hindered Petitioner from fully taking appeal.

Due to the denial by Court Of Appeals of five of Petitioner's Assignments Of Error and this done in abridgement of Petitioner's due process, by the foregoing acts Petitioner respectfully requests that this Petition For Writ Of Centiorari be granted.

ARGUMENT FOR ALLOWANCE OF WRIT FOR QUESTION TWO

It was error for trial court Judges to abridge Petitioner's Sixth and Fourteenth Amendment by revoking Petitioner's bond pending appeal with the knowledge that Pro Se Petitioner was perfecting appeal to this court.

The Federal Bail Reform Act

Of 1984 standard for admission to bail pending appeal is based on whether or not Petitioner is a flight hazard or danger to the community. Petitioner has never been arrested for a violent crime and has made all Appeal Bond Review Hearings in a timely manner and filed Financial Statements every twenty-one days as required by Trial Court regarding Petitioner's indigent status.

Petitioner has a Sixth Amendment right to defend himself.

Under Faretta v. California 422 U.S. 806, 95 SCT 2525 a pro se petitioner has actual control over the case he chooses to present. McKaskle V. Wiggins 104 S CT 944 951,

(1984) states that indeed control is the core of the Faretta right. Petitioner's Faretta rights were clearly abridged by Trial Court's revocation of bond and incarceration of Petitioner.

Petitioner was allowed only minimal time of law library study and reviewed less than forty percent of copies of requested cases not found in Detention Center's law library. Petitioner had to perfect appeal in loud and over-crowded population of Detention Center.

The United States Constitution protects both the denial of bail and the setting of excessive bail.

Although the Supreme Court

has not spoken on the applicability of the bail clause to the Eighth Amendment to the States through the Fourteenth Amendment, the weight of authority and reason favors such application.

Trial Judge's inflicted cruel and unusual punishment knowing that Petitioner's best chance for reversal of Judgments lie with the United States Supreme Court. Petitioner would probably serve entire sentence prior to full adjudication of Appeal.

The Trial Court allowed and is allowing other Petitioners to remain on bond through and including their appeal to the U.S. Supreme Court, Petitioner's revocation

of bond was selective and prejudicial.

Petitioner met the standard for bond pending Appeal and upon Petitioner's motion, the Virginia Court Of Appeals remanded Trial Court's decision.

Therefore, due to the foregoing Trial Court's revoking and denying Petitioner's Bond Pending Appeal and incarcerating Petitioner with the knowledge that Pro Se Petitioner was perfecting Appeal to this Court, with further knowledge that Petitioner met standards for bond pending appeal as certified by remand by Virginia Court Of Appeals; the total of same resulting in Petitioner's inability to fully take appeal and raise all issues necessary to the perfecting

and granting of that Appeal was in deprivation of the equal protection of laws guaranteed by the Fourteenth Amendment and Petitioner's Sixth Amendment right to act as his own attorney and for these reasons, due to the foregoing Petitioner respectfully requests that this Petition For Writ Of Certiorari be granted.

ARGUMENT FOR ALLOWANCE OF
WRIT FOR QUESTION THREE

The Supreme Court Of Virginia abridged Petitioner's Fourteenth Amendment by depriving Petitioner equal protection under due process by denying Petitioner's Petition For Rehearing.

On July 10, 1993, the Supreme Court of Virginia denied Pro Se incarcerated Petitioner's Motion For Extention Of Time to perfect appeal and Petitioner had to rely on the outdated and antiquated materials in the Arlington County Detention Center.

Rule 5:17(c) of the Rules Of The Supreme Court available to the incarcerated Petitioner read as follows: "Form and content.--The

Petition For Appeal shall contain Assignments Of Error. The form and contents of the Petition For Appeal shall conform in all respects to the Requirement of the Opening Brief Of The Appellant".....

Rule 5:17(c) of the Revised Rules not available to the then incarcerated Petitioner read as follows: "Form and content.--Under a separate heading entitled "Assignments Of Error", the Petition shall list the specific errors in the rulings below upon which the appellant intends to rely".....

A clear and concise difference between the old and new rules causing Petitioner to fail resulting in

this dismissal of the Virginia Supreme Court Appeal.

Not having the proper information with which to follow made it impossible to follow the rules and thereby causing irreparable damage to Petitioner's due process and for this reason Petitioner respectfully ask that this Petition For Writ Of Certiorari be granted.

CONCLUSION

In the light most favorable to the Commonwealth Of Virginia it is clear that Petitioner Irvin Hannis Catlett, Jr., has been deprived of fully taken appeal and respectfully prays that this Petition For Writ Of Certiorari be granted.

Respectfully submitted,

Irvin Hannis Catlett, Jr.
P.O. Box 128
Kensington, MD 20895
(301)779-3330

CERTIFICATE OF SERVICE

I hereby certify that three copies of Petition's Writ of Certiorari was mailed first class to the Office Of The Attorney General Of Virginia, Supreme Court Building, 101 North Eighth Street, Richmond, Virginia 23219, on this ___ day of February 1994 under Rule 29.3 of this Court.

Irvin Hannis Catlett, Jr.
P.O. Box 128
Kensington, MD 20895
(301)779-3330

NO.

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1993

IRVIN HANNIS CATLETT, JR.,
Petitioner,

v.

COMMONWEALTH OF VIRGINIA,
Respondent.

Petition For A Writ Of Certiorari
To The Supreme Court
Of Virginia

PETITION FOR WRIT OF CERTIORARI

Irvin Hannis Catlett,Jr.
P.O. Box 128
Kensington, MD 20895
(301) 779-3330
Pro Se

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VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday the 5th day of November, 1993.

Irvin Hannis Catlett, Jr., Appellant,

against

Record No. 931006
Court of Appeals
No. 0209-91-4

Commonwealth of Virginia, Appellee.

Upon a Petition for Rehearing

On consideration of the petition of the appellant to set aside the judgment rendered herein on the 27th day of September 1993 and grant a rehearing thereof, the prayer of the said petition is denied.

A Copy,

Teste: /s/

David B. Beach
Clerk

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Monday the 27th day of September, 1993.

Irvin Hannis Catlett, Jr., Appellant

against Record No. 931006
Court of Appeals No. 0209-91-4

Commonwealth of Virginia, Appellee.

From the Court of Appeals of Virginia

Finding that the appeal was not perfected in the manner prescribed by law, the Court dismisses the petition for appeal filed in the above-styled case. Rule 5:17(c).

Judge Keenan took no part in the consideration of this case.

A Copy,

Teste: /s/

David B. Beach
Clerk

VIRGINIA:

In the Court of Appeals of Virginia on Friday the 16th day of July, 1993.

Irvin Hannis Catlett, Appellant,

against Record No. 0209-91-4
Circuit Court Nos. CR87-468 through CR87-479

Commonwealth of Virginia, Appellee.

From the Circuit Court of Arlington County Before Judges Koontz, Elder and Fitzpatrick

Irvin Hannis Catlett (Catlett) appeals from the trial court's denial of his motion for bond pending appeal. By memorandum opinion dated April 20, 1993, a panel of this Court affirmed the trial court's judgment convicting Catlett of twelve counts

of forgery. On July 12, 1993, Catlett filed a notice of appeal of this Court's opinion.

The trial court's order denying Catlett's motion for bond pending appeal to the Virginia Supreme Court was not supported by a finding that Catlett is a flight risk or a danger to himself or the community. See Dowell v. Commonwealth, 6 Va. App. 225, 229, 367 S.E.2d 742, 744 (1988). Consequently, we remand this matter and direct the trial judge to state his reasons on the record for denying bond.

A Copy,

Teste: /s/

Patricia G. Davis,
Clerk

VIRGINIA:

In the Court of Appeals of Virginia on Thursday the 17th day of June, 1993

Irvin Hannis Catlett, Jr., Appellant,

against Record No. 0209-91-4
Circuit Court Nos. CR87-468 through CR87-479

Commonwealth of Virginia, Appellee.

Upon a Petition for Rehearing En Banc

Before the Full Court

On consideration of the petition of the appellant to set aside the judgment rendered herein on the 20th day of April, 1993 and grant a rehearing en banc thereof, the said petition is denied on the grounds that there is no dissent in the

panel decision, no member of the panel has certified that the decision is in conflict with a prior decision of the Court, nor has a majority of the Court determined that it is appropriate to grant the petition for rehearing en banc in this case. Code § 17-116.02(D).

A Copy,

Teste: /s/

Patricia G. Davis, Clerk

VIRGINIA:

In the Court of Appeals of Virginia on Monday the 19th day of August, 1991.

Irvin Hannis Catlett, Jr., Appellant,

against

Record No. 0209-91-4
Circuit Court Nos.
CR87-468 through
CR89-479

Commonwealth of Virginia, Appellee,

From the Circuit Court of Arlington County

The transcripts in this case were not timely filed. The following issues have been raised on appeal:

a. Whether defendent Catlett received reasonably effective assistance of counsel, and did cousel's representation fall below an objective standard of reasonableness;

b. Whether the Commonwealth's

failure in response to the discovery motion to disclose criminal conviction of the Commonwealth's main witness violate defendant's right to due process;

c. Whether the grand jury indictments were faulty because the elements necessary to prove forgery did not exist;

d. Whether Arlington County had venue over this offense;

e. Whether the Commonwealth prejudiced the jury by its opening statement;

f. Whether the trial judge unfairly influenced the jury by asking a number of questions the Commonwealth failed to ask;

g. Whether the trial judge erred by sentencing defendant to eight times the sentence suggested in state sentencing guidelines;

h. Whether the jury was prejudiced by a statement from Witness Barrow that most notes received from defendant were bogus; and

i. Whether the Commonwealth's misstatements of facts during closing statement caused error.

Since the transcripts are indispensable to a determination of issues a, e, f, h and i, the petition for appeal must be dismissed as to those issues. See Turner v. Commonwealth, 2 Va. App. 96, 341 S.E.2d 400 (1986). This case shall be kept on the docket

and referred to a regular panel with respect to issues b, c, d and g.

This order shall be certified to the trial court.

A Copy,

Teste: /s/

Patricia G. Davis, Clerk

COMMONWEALTH OF VIRGINIA

VS CR87-468 thru
CR87-479

IRVIN HANNIS CATLETT, JR.

THE 1st day of March, 1991, came the Commonwealth of Virginia by its Attorney, Richard E. Trodden, the Defendant pursuant to his personal recognizance and appearing pro se.

WHEREUPON this case came before the Court on the Defendant's "Motion to be Declared Indigent for the Purpose of Obtaining all Transcripts to Aid in the Appeals Process", which said motion the Court granted and so ordered.

IT IS FURTHER ORDERED by the Court that the Defendant shall submit

a financial statement to the Court on March 22, 1991, and every twenty-one (21) days thereafter until further ordered by the Court.

IT IS FURTHER ORDERED by the Court that the appeal bond herein remain in full force and effect.

Entered this 4th day of March, 1991.

/s/ Paul F. Sheridan
Judge

VIRGINIA:
IN THE COURT OF APPEALS

IRVIN HANNIS CATLETT, JR.]
APPELLANT]
]
V.]
]
COMMONWEALTH OF VIRGINIA]
APPELLEE]
]

EMERGENCY MOTION FOR REVIEW

NOW COMES Appellant Irvin Hannis Catlett, Jr., Pro Se, and pursuant to orders dated June 24, 1993, and July 2, 1993, from the Circuit Court of Arlington County, does ask this Honorable Court to review and reverse said Orders, and order Circuit Court to reinstate former bond; and now states the foregoing in support of that Motion;

1. That Appellant's address is Arlington County Detention Center,

1400 N. Courthouse Road, Arlington Virginia 22201;

2. That Pro Se Appellant filed a Motion For Bond pending appeal on January 23, 1991;

3. That said Motion was granted by the Honorable Judge Sheridan and Appellant was released on a $18,500 surety bond;

4. Without factual finding as guaranteed by the Eighth Amendment that based solely on said Order from this Honorable Court dated April 20, 1993, that affirmed Trial Court's decision, the Honorable Judge Winston of Arlington Circuit Court revoked Appellant's appeal bond;

5. That Appellant filed on June 30, 1993, Notice Of Appeal of all decisions of this Court Record Number 0209-91-4;

6. On July 2, 1993, in violation of Appellant's Fourteenth Amendment, Judge Sheridan of Arlington County Circuit Court, with the knowledge of the extreme overcrowded conditions, knew or should have known that Pro Se Appellant could not perfect Appeal while incarcerated and maliciously denied Appellant's Motion For Reinstatement Of Bond Pending Appeal.

7. That Appellant's Petition For Appeal must be filed in the Supreme Court of Virginia by July 17, 1993;

8. That under Federal Bail Reform Act of 1984, standard for admission to bail pending appeal is based on whether or not Appellant is a flight hazard and a danger to the community. Appellant has never been arrested for a violent crime and has made all Court appearances;

9. That Appellant attended all Appeal Bond Hearings in a timely manner and filed financial statements every twenty-one days as required by Trial Court regarding Appellant's indigent status; and has not been convicted of any violent crimes nor is Appellant a danger to the community;

10. That Trial Court has allowed and is allowing other Appellant to remain on bond through and including their Appeal to the United States Supreme Court;

11. That revocation of bond was selective and malicious, and cruel and unusual punishment;

12. That Appellant has been incarcerated since June 21, 1993, and has been afforded less than nine hours in Arlington County Detention Centers' antiquated and sparsely populated law library and has asked law librarian for copies of more than 20 law cases and has only received 7 at writing of this Motion;

13. That above conditions coupled with extreme over-crowded condition in Detention Center will severly compromise Appellant's ability to perfect Appeal to the Supreme Court.

Therefore due to the foregoing, Appellant prays that this Honorable Court will review and reverse said Trial Court Orders' dated June 24, 1993, and July 2, 1993, revoking Appellant's bond pending appeal, and order Circuit Court to reinstate former bond or in the alternative, grant Appellant new bond pending appeal.

Respectfully submitted this 12th day of July 1993,
/s/
Irvin Hannis Catlett, Jr., Pro Se

EXHIBIT 1

COMMONWEALTH OF VIRGINIA

CR87-468-79

VS

IRVIN HANNIS CATLETT, JR.

THE 21st day of June 1993 came the Commonwealth of Virginia, by its Attorney, Andrew Parker, the Defendant pursuant to his appeal bond and appearing pro se.

WHEREUPON this case came on for review of the Defendant's appeal bond status and it appearing to the Court from representation of the Commonwealth that the Defendant's appeal has been denied by the Court of Appeals of Virginia and

IT FURTHER APPEARING to the Court that the Defendant was on

January 4, 1991 sentenced to serve twelve (12) consecutive four (4) month sentences for Forgery.

IT IS THEREFORE ORDERED by the Court that the Defendant's appeal bond be revoked and the Defendant remanded to the custody of the Sheriff to serve his sentences.

Entered this 24th day of June, 1993.

/s/
JUDGE

A Copy,
Teste: David
A. Bell
Clerk

EXHIBIT 2

VIRGINIA:
IN THE CIRCUIT COURT OF
ARLINGTON COUNTY

COMMONWEALTH OF VIRGINIA PLAINTIFF	]]	
V.	]]	CR87- 467-
IRVIN HANNIS CATLETT, JR. DEFENDANT	]]	679

MOTION FOR BOND PENDING APPEAL

COMES NOW the Defendant, Irvin Hannis Catlett, Jr., in proper person and based on the following, does ask this Honorable Court to reinstate former Bond Pending Appeal in the above styled case;

And for Defendant this states the following:

1. That Defendant filed a Notice Of Appeal on January 23,

1991, appealing the Judgment and sentence in the above styled case;

2. That Defendant was incarcerated on the date Notice was filed;

3. That Defendant filed a Motion For Bond Pending Appeal on January 23, 1991;

4. That Motion was granted and Appellant was released on bond;

5. On February 26, 1991, Defendant filed a Motion To Be Determined Indigent and that Motion was granted on March 4, 1991;

6. On March 4, 1991, it was also ordered that the Court provide all transcripts and ordered those transcripts be completed by March 21, 1991, and be made part of the record;

7. That Defendant was misled by Assistant Circuit Clerk when Defendant discussed filing a Motion For Extention Of Time To File Transcripts. Clerk assured Defendant that there would be no problem with transcripts being timely filed.

8. That incomplete transcripts were provided late in violation of Defendant's Fourteenth Amendment rights. See Feather v. Pexton, 297 F Supp 772 (WVa 1969 and Wright v. Boles, 393 F Supp 872 (N.D. WVa. 1969);

9. That nine of Defendant's Assignments Of Errors were dismissed due to above late filing;

10. On June 21, 1993, this

Court revoked Defendant's appeal bond based on Order from Virginia Court of Appeals affirming Defendant's Trial Court's decision, in violation of Defendant's Eighth Amendment rights, based solely on said Order of the Court Of Appeals dated April 20, 1993, affirming Trial Court's decision and prior to certification from the Court Of Appeals;

11. That Defendant has or will, by date of Hearing on this Motion, file Pro Se Notice Of Appeal to Virginia Supreme Court appealing all of the decisions rendered in this case by the Virginia Court of Appeals;

12. That Defendant is now

incarcerated in the Arlington County Detention Center;

13. That Defendant is operating Pro Se and cannot effectively prosecute Appeal using Detention Center's outdated and sparsely stocked library;

14. That Defendant attended all bond hearing reviews in excess of two years and filed financial statements every twenty-one days as required by this Court regarding Defendant's indigent status.

15. That Defendant has not been convicted of any violent crime and is not a flight hazard;

16. That Defendant is involved in a civil trial in King George County where Defendant could win

or lose ± $712,000.00; it would be difficult to prosecute and defend that case incarcerated.

17. That Defendant's best chance for reversal is based on Paragraph Seven and Eight of the foregoing;

18. That reversal is most likely to occur in Federal Court and Defendant's entire sentence could be served prior to completion of Appeal in violation of Defendant's Eighth Amendment;

Therefore, based on the foregoing, Defendant does hereby ask this Honorable Court to reinstate former bond pending Appeal.

Signed and dated
this 28th day
of June 1993

/s/
Irvin Hannis Catlett,
Jr.

EXHIBIT 3

COMMONWEALTH OF VIRGINIA

VS CR87-468-79

IRVIN HANNIS CATLETT

The 2nd day of July, 1993 came the Commonwealth of Virginia by its Attorney, Arthur L. Karp, the Defendant in the custody of the Sheriff and appearing pro se.

WHEREUPON this case came before the Court on the Defendant's "Motion to Set Bond Pending Appeal" and argument of counsel was heard on same.

UPON CONSIDERATION WHEREOF it is the opinion of the Court that the Defendant's motion be and it hereby is denied.

AND the Defendant is hereby remanded to jail.

Entered this 8th day of July, 1993.

/s/ Paul F. Sheridan
Judge

A Copy.

Teste: David A.
Bell, Clerk

RULES OF SUPREME CT. OF VA.
RULE 5:17(c)
(OUTDATED)

Form and Content.--The petition for appeal shall contain assignments of error. The form and contents of the petition for appeal shall conform in all respects to the requirements of the opening brief of appellant (Rule 5:27). Four copies shall be filed. Carbon copies are acceptable. Except by leave of a justice of this Court, a petition for appealshall not exceed 35 typed or 25 printed pages. The provisions of Rule 5:25 shall apply to limit the questions upon which this Court will rule on appeal. Only errors assigned in the petition for appeal will be noticed by this Court. Where appeal is taken from a judgment of the Court of Appeals,

only assignments of error relating to questions presented in the Court of Appeals and assignments of error relating to action of the Court of Appeals may be included in the petition for appeal to this Court.

RULES OF SUPREME CT. OF VA.
(REVISED)
RULE 5:17 (c)

Form and Content.--Under a separate heading entitled " Assignments of Error," the petition shall list the specific errors assigned in the petition shall list the specific errors in the rulings below upon which the appellant intends to rely. Only errors assigned in the petition for appeal will be noticed by this Court. Where appeal is taken from a judgment of the Court of Appeals, only assignments of error relating to questions presented in, or to actions taken by, the Court of Appeals may be included in the petition for appeal to this

Court. An assignment of error which merely states that the judgment or award is contrary to the law and the evidence is not sufficient. If the petition for appeal does not contain assignments of error, the appeal will be dismissed.

Under another separate heading entitled "Questions Presented," the petition shall list the questions upon which the appellant intends to submit argument, with a clear and exact reference to the particular assignment of error to which each question relates.

Where appeal is taken from a judgment of the Court of Appeals in a case where judgment is made

final under Code § 17-116.07, the petition for appeal shall contain a statement setting forth in what respect the decision of the Court of Appeals involves (1) a substantial constitutional question as a determinative issue, or (2) matters of significant precedential value. If the petition for appeal does not contain such a statement, the appeal will be dismissed.

IN THE SUPREME COURT OF VIRGINIA

IRVIN HANNIS CATLETT, JR.	]
APPELLANT	]
V.	]
	]
COMMONWEALTH OF VIRGINIA	]
APPELLEE	]
	]

MOTION FOR EXTENSION OF TIME TO FILE PETITION

1. That on June 17, 1993, Appellant's Petitions For Rehearing were denied in the Virginia Court of Appeals;

2. That on June 21, 1993, Appellant's bond pending Appeal was revoked without just cause during Appellant's Bond Review Hearing and Appellant was incarcerated;

3. That on June 24, 1993,

Appellant received Notice Of Denial of Petition For Rehearing by mail forwarded from a friend to Arlington County Detention Center;

4. That on June 30, 1993, Appellant filed Notice Of Appeal with this Court;

5. That due to over-crowded conditions, Appellant has only been allowed nine hours of law library time to research Appeal and has received less than 35% of requested copies to perfect Petition;

6. That Appellant has asked Director of Detention Center extended time for research. Director has failed to give Appellant adequate time to perfect appeal;

7. That on July 10, 1993, Appellant has filed in this court, a Motion For Review of Trial Court's revokation of bond.

8.That Tharp v. Commonwealth, 211 VA 1, 175 SE 2d, 277 (1970), states that this Court should extend time for filing Petition if Appellant's Constitutional rights are abridged.

9. That failure to extend time to be depriving Appellant equal protection of laws guaranteed by the Fourteenth Amendment, see Wright v. Boles, 303 F Supp. 872 (W.D. WVA 1969), by failure of providing Appellant adequate time to file Pro Se Appeal.

Therefore, for the foregoing reasons, Appellant prays that this

Court extends the time for filing petition in the foregoing case for 60 days or in the alternative, 30 days after bail is granted.

Respectfully submitted
this 10th day of July
1993

/s/
Irvin Hannis
Catlett, Jr. Pro Se

Griffin v. The People of The
State of Illinois (76 S.Ct.585)

States that:

Under due process and equal protection causes, destitute defendants must be afforded an adequate appellate review as defendants who have money enough to buy transcripts. And;

Where convicted defendants allege that they were poor persons with no means of paying necessary fees to acquire denial of motion that copy of record, including stenographic transcript, be furnished them without cost was a denial of

equal protection and due process, and defendants were entitled to relief.

CONCLUSION

For the reasons stated herein, and because the Appellant's Constitutional rights have been compromised, Appellant petitions this Court to hear En Banc Appellant's Petition For Rehearing to allow admission to record all Transcripts or to the alternative, a complete dismissal of the Judgment and Sentence of the Trial Court due to irreparable injuries of Appellant's Constitutional rights.

Respectfully submitted,

/s/
Irvin Hannis
Catlett, Jr., Pro Se

IN THE SUPREME COURT OF VIRGINIA

Irvin Hannis Catlett, Jr. Appellant	]	
V.	]	Case # 931006
Commonwealth Of Virginia Appellee	]	

PETITION FOR REHEARING

COMES NOW the Appellant Irvin Hannis Catlett, Jr., Pro Se pursuant to Rule 5:20 and having filed a Petition For Appeal and that appeal being dismissed for improper perfecting under Rule 5:17(c), based on the facts stated below does prey this Court to reverse that dismissal:

1. That Appellant filed a Notice Of Appeal to the Court of Appeals on January 23, 1991.

2. On April 20, 1993, the Court of Appeals affirmed trial court convictions.

3. That on June 20, 1993, without factual finding as guaranteed by the Eighth Amendment that based solely on said order from the Court of Appeals, dated April 20, 1993, and over the objections of Appellant, Judge Winston of Arlington Circuit Court revoked Appellant's appeal bond;

4. On July 2, 1993, Appellant filed Notice Of Appeal to this Court;

5. On July 2, 1993, Appellant argued Motion For Bond Pending Appeal in Trial Court stating that it would be impossible to perfect appeal to this Court while incarcerated

due to the inadequate and outdated law library in the Detention Center, trial court denied that Motion.

6. Then on July 10, 1993, Appellant filed a Motion For Extention To File Petition citing Tharp v. Comm 211 VA 1, 175 S,E,2d, 277 (1970). This Court denied that motion.

7. Also on July 10, 1993, Appellant filed Motion For Review to the Virginia Court of Appeals, to review trial court's denial of bail pending appeal.

8. On July 16, 1993, Court of Appeals remanded trial court to go on record and state reasons for denial of Appellant's Motion

For Bond Pending Appeal. Dowell v. Commonwealth, 6 Va APP 225 229 367 S.E.2d 742 744 (1980).

9. Relying on Arlington County Detention Center's outdated law library to perfect appeal, appeal to this Court was timely filed on July 17, 1993.

10. That on July 30, 1993, Appellant was admitted to bail on July 16, 1993, remand from the Court of Appeals.

11. On September 27, 1993, this Court dismissed Appellant's appeal for improper perfecting for failing to list under separate heading entitled "Assignment Of Errors" as required under Rule 17(c).

12. That indigent Pro Se Appellant perfected appeal without the benefit of the revised Rules of the Supreme Court of Virginia cited for reason for dismissal.

13. That Rule 5:17(c) available to incarcerated Pro Se Appellant stated that Petition For Appeal shaol contain assignment of errors throughout appeal brief.

14. That filure of Appellant to have available revised Rules of the Supreme Court and to have that appeal dismissed for failing to follow rules not available to Pro Se incarcerated Appellant abridged Appellant's Fourteenth Amendment under equal protection for depriving Appellant from fully taking appeal.

15. That Attorney General did not raise objections to Appellant's brief on the grounds of non compliance with Rule 5:17(c), therefore this Court should confine its attention to the points raised in the brief. Carr v. Commonwealth 175 Va 608 9 S.E. 2d 287 (1940).

Due to the foregoing Appellant prays that this Honorable Court will rehear appeal or reverse dismissal of appeal and allow Appellant to fully prosecute this appeal.

Respectfully
submitted this
10th day of
October 1993,

/s/
Irvin Hannis
Catlett, Jr. Pro Se